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## FACSIMILE TRANSMISSION COVER SHEET

Date: Tuesday, February 22, 2005

To USPTO - Examiner: **Creighton H. Smith** Art Unit: **2645**

Fax: **703/872-9306**

From: **Terril G. Lewis**

Customer No: **29855**

Client/Matter #: **199-0237US-C**

Serial No.: **10/717,944**

Re: *Please see the attached*

Pages (including cover page): 15

Received in the United States Patent and Trademark Office

1. Petition to Withdraw Office Action and Request to Consider Preliminary Amendment (2 pages);
2. Enlarged copy of postcard and Express Mail Receipt indicating receipt by the Patent Office of Preliminary Amendment filed on November 20, 2003; (2 pages); and
3. Copy of Preliminary Amendment filed on November 20, 2003 (9 pages) and Exhibit A (1 page).

**Terril G. Lewis, Reg. No. 46,065**

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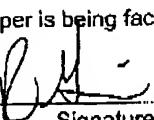
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I hereby certify that this paper is being facsimile transmitted to the Patent Office at 703-872-9306 on the date below:

2/22/2005

Date



Signature

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/717,944	Confirmation No. 9036
Applicant	:	William O'Malley, et al.	
Filed	:	November 20, 2003	
TC/A.U.	:	2645	
Examiner	:	Creighton H. Smith	
Docket No.	:	199-0237US-C	
Customer No. :		29855	

PETITION TO WITHDRAW OFFICE ACTION AND  
REQUEST TO CONSIDER PRELIMINARY AMENDMENT

Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

An office action dated February 9, 2005 was received in the above-referenced continuation patent application. The office action expressed that claims 1-16 were pending in this application. However, claims 1-16 were canceled by a preliminary amendment filed with this application on November 20, 2003, at which time new claims 17-27 were presented. Thus, it appears to Applicant that the February 9, 2005 office action was directed to the wrong claims, as it should have addressed claims 17-27 entered by the preliminary amendment.

The Applicant contacted Examiner Smith on February 22, 2005 to discuss this matter, and the Examiner informed that he had not received the preliminary amendment

Application No. 10/717,944  
Petition Dated: February 22, 2005

for this case. The Examiner did however encourage Applicant to prove that the preliminary amendment was in fact earlier filed, and if so to file a petition (i.e., this petition) to have the office action of February 9, 2005 withdrawn and the preliminary amendment of November 20, 2003 entered and considered. Here, Applicant encloses a copy of the November 20, 2003 preliminary amendment, along with a copy of the postcard evidencing its mailing on the same date, and the PTO's stamp acknowledged receipt on the same day. A copy of the Express Mail Receipt (date in 11/20/2003) is also enclosed. Applicant trusts this is sufficient to prove the PTO's receipt of the preliminary amendment, and therefore that the Examiner should have entered claims 17-27 in the case and examined the same.

*Accordingly, Applicant respectfully requests that the erroneous office action of February 9, 2005 be withdrawn, and that the preliminary amendment of November 20, 2003 be entered and claims 17-27 be subject to examination.*

As a side note, that Applicant was further concerned that the February 9, 2005 office action did not contain evidence that the Examiner considered the Information Disclosure Statement (IDS) filed on November 20, 2003. The Examiner did however indicate that this IDS paper had been received and had simply been accidentally overlooked. Therefore, please consider this a reminder to the Examiner to consider that IDS in his next response.

Respectfully submitted,



\_\_\_\_\_  
Terril G. Lewis, Reg. No. 46,065

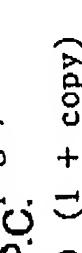
Wong, Cabello, Lutsch,  
Rutherford & Bruculeri, L.L.P.  
20333 SH 249, Suite 600  
Houston, TX 77070  
832/446-2422

February 22, 2005.

RECEIVED ON DATE **02/22/2005**

In Re: Continuation Patent Application of William O'Malley et al.

Filed: Herewith **DEC - 1 2003**  
For: **AUDIO CONFERENCE PLATFORM SYSTEM** AND ... **22386 U.S. PTO**  
**10/717944**

1. Certificate of Marling (1 page)
2. Transmittal DQ Sp&K, P.C. 
3. Fee Transmittal (1 page) (1 + copy)  112003
4. Check/\$770
5. Specification (21 pages) (copy from parent)
6. Drawings (10 sheets) (2 sets) (copy from parent)
7. Declaration (2 pages) (copy from parent)
8. Assignment Papers (11 pages) (copy from parent)
9. Statement Under 37 CFR 3.73(b) (1 page) (copy from parent)
10. Power of Attorney (1 page) (copy from parent)
11. Information Disclosure Statement (2 pages), PTO/SB/08A (1 page), PTO/SB/08B (1 page) and Cited Art Preliminary Amendment (9 pages) and Exhibit A (1 page)
12. Date: November 20, 2003 DN 7257/117(a) - Voyant

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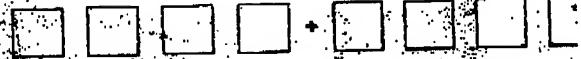
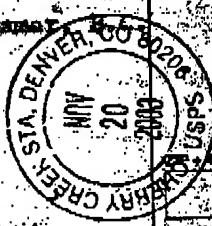
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Docket No. 7257/117(a)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application of  
William O'Malley et al.

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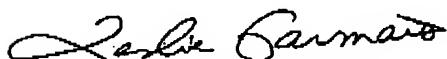
Serial No.:

Filed: Herewith

For: AUDIO CONFERENCE PLATFORM  
SYSTEM AND METHOD FOR  
BROADCASTING A REAL-TIME  
AUDIO CONFERENCE OVER THE  
INTERNET

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Leslie S. Gammie, Reg. No. 47,587

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November 20, 2003  
Date of Deposit

PRELIMINARY AMENDMENT

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Prior to the first Office Action, please amend the above-identified application as follows:

Amendments to the Title:

Please amend the title as follows:

~~AUDIO CONFERENCE PLATFORM SYSTEM AND METHOD FOR BROADCASTING  
A REAL TIME AUDIO CONFERENCE OVER THE INTERNET~~ AUDIO CONFERENCING  
METHOD

Amendments to the Specification:

Please replace the paragraph beginning at page 1, line 6 with the following amended paragraph:

This application is a continuation of U.S. Patent Application Serial No. 09/532,983, filed March 22, 2000, entitled "Audio Conference Platform System and Method for Broadcasting a Real-Time Audio Conference over the Internet" which claims the benefit of U.S. Provisional Patent Application Serial No. 60/125,440, filed March 22, 1999, entitled "Audio Conference Platform System and Method for Broadcasting a Real-Time Audio Conference Over the Internet". This application contains subject matter related to [a] commonly assigned co-pending U.S. Patent application designated serial number TBD, 09/532,602, filed March 22, 2000, entitled "Scalable Audio Conference Platform", Platform", which patent application has matured into U.S. Patent No. 6,625,271, the disclosure of which patent is hereby incorporated herein by reference. This application is hereby incorporated by reference.

Amendments to the Specification (continued):

Please delete the old abstract and enter the following new abstract in its place:

A conferencing method that conducts an audio conference over the Internet. The method includes receiving digitized audio signals, summing a plurality of received audio signals that contain speech, providing a summed conference signal from the summed plurality of audio signals with an audio conference mixer, transcoding the summed conference signal, and streaming the transcoded summed signal onto the Internet.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-16 (canceled)

Claim 17 (new): An audio conferencing method, the method comprising:  
receiving digitized audio signals that contain speech;  
summing said received digitized audio signals;  
providing a summed conference signal from said summed received digitized  
audio signals using an audio conference mixer;  
transcoding said summed conference signal; and  
streaming said transcoded summed signal onto the Internet.

Claim 18 (new): An audio conferencing method, the method comprising:  
receiving, at a first of a plurality of digital signal processors, digitized audio  
signals associated with conference participants who are speaking;  
summing, at said first digital signal processor, said received digitized audio  
signals, thereby generating a summed conference signal; and  
providing, to a second of said plurality of digital signal processors, said summed  
conference signal and a conference list indicative of said summed received digitized audio  
signals.

Claim 19 (new): The method of claim 18 further comprising:  
for each said speaking conference participant, removing the digitized audio  
signal associated with each said speaking conference participant from said summed  
conference signal, thereby generating a customized conference audio signal associated with  
each said speaking conference participant; and  
providing to each said speaking conference participant the customized  
conference audio signal associated with each said speaking conference participant.

Claim 20 (new): The method of claim 18 further comprising:  
transcoding said summed conference signal; and  
streaming said transcoded summed conference signal onto the Internet.

Claim 21 (new): The method of claim 20 wherein said transcoding is performed by  
a third of said plurality of digital signal processors.

Claim 22 (new): The method of claim 18 further comprising:  
configuring said first digital signal processor as an audio conference mixer; and  
configuring said second digital signal processor as an audio processor.

Claim 23 (new): An audio conferencing method, the method comprising:  
receiving a plurality of audio signals, each said audio signal associated with a  
conference participant;  
providing a digitized audio signal and an associated speech bit for each said  
received audio signal, each said speech bit indicating whether its associated digitized audio  
signal includes voice data;  
summing digitized audio signals including said voice data;  
providing a summed conference signal from said summed digitized audio  
signals using a first digital signal processor;  
providing a conference list listing conference participants associated with said  
digitized audio signals including said voice data;  
transmitting said summed conference signal and said conference list from said  
first digital signal processor to a second digital signal processor;  
providing said transmitted summed conference signal to conference participants  
not included on said conference list;  
for each said listed conference participant, removing the digitized audio signal  
associated with each said listed conference participant, thereby generating a customized  
conference audio signal associated with each said listed conference participant;  
providing to each said listed conference participant the customized conference  
audio signal associated with each said listed conference participant;

transcoding said summed conference signal; and  
streaming said transcoded summed conference signal onto the Internet.

**Claim 24 (new):** The method of claim 23 wherein said first digital signal processor is configured as an audio conference mixer.

**Claim 25 (new):** The method of claim 23 wherein said second digital signal processor is configured as an audio processor.

**Claim 26 (new):** The method of claim 23 further comprising:  
determining whether at least one Dual Tone Multi-Frequency (DTMF) tone is present in each said received audio signal.

**Claim 27 (new):** The method of claim 26 wherein said summing comprises:  
omitting from said summed conference signal digitized audio signals provided from received audio signals in which said at least one DTMF tone is present.

REMARKSNew Title:

The title has been amended to more accurately describe the present invention.

New Abstract:

A new abstract is presented herein to better reflect the subject matter of this application. No new matter has been added.

Claim to Priority:

The "cross reference to related applications" section has been amended in this document to indicate that this application is a continuation of U.S. Patent Application Serial No. 09/532,983 (the parent application). This section, as amended, also appropriately claims the benefit of the provisional application to which the parent application claims priority.

Changes to the Claims:

In this application, claims 1-16 from the parent application are canceled, and new claims 17-27 have been entered. New claims 17-27 are method claims which include limitations that substantially correspond to the limitations included in allowed claims 1-16 in the parent application. The new claims are supported both by claims 1-16 and by the specification of the parent application. No new matter has been added.

Patentability of the New Claims:

The reasons for allowance in the parent case (hereafter, the "reasons for allowance") are attached hereto as "Exhibit A." The reasons for allowance indicate that the prior art does not "teach applicant's mixer that provides a *summed conference signal*" (emphasis in original). New claim 17 includes limitations substantially corresponding to claim 1 in the parent application and recites the limitation "providing a summed conference signal from said summed received digitized audio signals using an audio conference mixer" (emphasis added). Thus, claim 17 recites limitations that the Examiner indicated made claim 1 in the parent application patentable over the prior art. Accordingly, Applicants contend that new

claim 17 is patentable over the prior art for the same reasons as claim 1 in the parent application.

The reasons for allowance indicate that limitations, recited in canceled claims 2 and 10 from the parent application, pertaining to sending a summed conference signal between digital signal processors, are not taught by the prior art. New claims 18 and 23 recite limitations substantially corresponding to those recited in canceled claims 2 and 10, respectively, from the parent application, which limitations recite sending a summed conference signal between digital signal processors. Accordingly, Applicants assert that new claims 18 and 23 are patentable over the prior art for the same reasons as claim 2 and 10 in the parent application.

Claims 19-22 depend from claim 18, claims 24-27 depend from claim 23, and the dependent claims inherit all the limitations of their respective independent claims. Thus, claims 19-22 and 24-27 are patentable over the prior art for the same reasons as their respective independent claims. Therefore, new claims 17-27 are patentable over the prior art.

**Conclusion:**

Based on the foregoing, all pending claims are allowable, and Applicants respectfully request that the instant case be passed to issue. Should you have any questions regarding the above, please feel free to give the below-listed attorney a call. If additional fees are required, please debit our Deposit Account No. 04-1414.

Respectfully submitted,

DORR, CARSON, SLOAN, BIRNEY & KRAMER, P.C.

Date: 11-20-2003

By: Leslie S. Garmaise

Leslie S. Garmaise  
Reg. No. 47,587  
3010 East 6th Avenue  
Denver, Colorado 80206  
(303) 333-3010

Serial Number: 09/532983

Page 2

Art Unit: 2642

### REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: None of the references found in searching the prior art teach an audio conferencing system streamed onto the Internet with a *mixer* that provides a *summed conference signal*.

Smythe et al, Doganata et al, & Christie IV et al teach an audio conference that is streamed over the Internet, but do not teach applicant's *mixer* that provides a *summed conference signal*. Neither do Smythe, Christie, or Dognata teach an audio conferencing system that has a 1st & 2nd plurality of DSPs, whereby the *1st DSPs* will send a *summed conference signal to the 2nd plurality of DSPs*. No obvious combination of references found would teach one having ordinary skill in the art to make and use applicant's invention as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C Smith whose telephone number is (703) 308-2488.

Creighton Smith

May 29, 2003



Creighton Smith  
Primary Examiner

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